

85th Legislative Session – 2010

Committee: House State Affairs

Monday, February 22, 2010

P - Present
E - Excused
A - Absent

Roll Call

P Boomgarden
P Engels
P Feinstein
P Gosch
P Hunhoff (Bernie)
P Lucas
P Lust
P Rausch
P Rave
P Steele
P Turbiville
P Noem, Vice-Chair
P Faehn, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman Faehn.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 18 AND FEBRUARY 19, 2010.

Moved by: Rausch
Second by: Hunhoff (Bernie)
Action: Prevailed by voice vote.

HB 1278: provide for a process of obtaining certain information from online content providers in slander and libel actions.

Proponents: Representative Noel Hamiel
Representative Brock Greenfield
Matt McCaulley, Self, Sioux Falls (Handout 1)

Opponents: Steve Sibson, Self, Mitchell (Handout 2)
Pat Powers, self, Brookings
David Bordewyk, SD Newspaper Association
Mike Shaw, Motion Pictures Assn. Of America
Bob Miller, Funeral Director's Association
Bill Van Camp, AT&T
Greg Dean, SD Telecommunications Association
Dick Gregerson, SD Newspaper Association

MOTION: AMEND HB 1278

1278oa

On page 1 of the printed bill, delete lines 6 to 8, inclusive, and insert "Any person who keeps a record of the internet-protocol logs adequate to provide identification and location of otherwise unknown, anonymous, or pseudonymous persons who leave or upload content may be compelled to".

Moved by: Hunhoff (Bernie)
Second by: Lucas
Action: Failed by voice vote.

MOTION: AMEND HB 1278

1278ra

On page 1 of the printed bill, delete lines 12 and 13, and insert "Any party, who makes a prima facie case of defamation may obtain an order compelling production of internet-protocol logs in relation thereto. In an action for defamation brought pursuant to statute or under common law, the plaintiff shall establish:".

On page 2, line 5, delete "and".

On page 2, line 7, after "source" insert "; and

- (5) That the action was brought by the plaintiff within six months of the plaintiff's actual knowledge of the alleged defamation".

Moved by: Gosch
Second by: Rave
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION AMEND HB 1278

1278ob

On page 1 of the printed bill, delete lines 12 and 13, and insert "Any party, who makes a prima facie case of defamation may obtain an order compelling production of internet-protocol logs in relation thereto. In an action for defamation brought pursuant to statute or under common law, the plaintiff shall establish:".

Moved by: Gosch
Second by: Rave
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1278 AS AMENDED

Moved by: Turbiville
Second by: Gosch
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DEFER HB 1278 TO THE 41ST LEGISLATIVE DAY

Moved by: Rave
Second by: Boomgarden
Action: Prevailed by roll call vote. (9-3-1-0)

Voting Yes: Boomgarden, Engels, Hunhoff (Bernie), Lucas, Lust, Rausch, Rave, Noem, Faehn

Voting No: Gosch, Steele, Turbiville

Excused: Feinstein

HB 1277: provide for a process of obtaining certain information from online content providers in slander and libel actions.

MOTION: TO TABLE HB 1277

Moved by: Gosch
Second by: Rave
Action: Prevailed by roll call vote. (11-0-2-0)

Voting Yes: Boomgarden, Engels, Gosch, Lucas, Lust, Rausch, Rave, Steele, Turbiville, Noem, Faehn

Excused: Feinstein, Hunhoff (Bernie)

MOTION: ADJOURN

Moved by: Rave

Second by: Noem

Action: Prevailed by voice vote.

Grace Curtis
Committee Secretary

Bob Faehn, Chair